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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/626,753	07/25/2003	Colin Knight	gbc72203	1721

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EXAMINER

HENDERSON, MARK T

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/626,753

Applicant(s)

KNIGHT, COLIN

Examiner

Mark T Henderson

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/25/03</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Attachment I</u> .                     |

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## **DETAILED ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing of responses to Office Actions directly into the Group at (703)872-9306. This practice may be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 9, 11 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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2. In Claims 9 and 17, it is not understood what is meant by “interior slot”. Is applicant referring to “interior” as to be “within” or “in the middle of” the ring elements, or “in the middle of”?
3. In Claim 11, it is not understood what is meant by “on the both hinge braces”. Does applicant mean to say “on both hinge braces”?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6, 8, 10-12, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Baumann (6,270,280).

Baumann discloses in Fig. 1, 4-6 and in Attachment I, an elongated dorsal hinge (21) having a first hinge brace (3), a second hinge brace (4), a connecting strip (5); a plurality of complimentary male and female ring element pairs (Fig. 1), wherein each semicircular ring element comprises a proximal end (6) attached to a hinge brace (3 and 4), and a distal end (A

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and 22) comprising a male fastener (7) and a female fastener (14); each ring element pair having one ring elements (1 and 11) each attached to a hinge brace (3 and 4); wherein for each element pair, the distal end (22) of one ring element (11) is concave, and the distal end (A) of the complimentary ring element (1) is convex and complimentary to the concave distal end (22); wherein the male fastener (7) comprises a neck (8) that attaches a head (9) that is thicker than the neck (8) to the distal end; wherein the female fastener comprises a fastener recess (10) having an outer channel (13) and an inner head cavity (14); wherein the spine binder is unitary injection molded polymer (Col. 3, lines 14-25); wherein the hinge braces are shaped so that they are separable to greater than 180 degrees (seen in Fig. 1); and wherein the male and female ring elements are interspersed on both hinge braces.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 3-5, 7, 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann.

Baumann discloses a spine binder comprising all the elements as claimed in Claims 1 and 12. However, Baumann does not disclose: having 19, 21, 32 or 34 ring element pairs; and wherein the ring elements are wider than thick.

In regards to **Claims 3-5 and 13-15**, it would have been obvious to one having ordinary skill in the art at the time the invention was made to construct as many ring element pairs as desired by the end user to bind a number of hole-punched sheets, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. Therefore, it would have been obvious to construct as many ring element pairs as desired, since applicant has not disclosed the criticality of having a particular number of ring element pairs, and invention would function equally as well if constructed with any number of ring element pairs for binding a hole punched sheet.

In regards to **Claims 7 and 16**, it would have been an obvious matter of design choice to construct the ring elements any desirable dimension for inserting in a particular sized holed sheet, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. Therefore, it would have been obvious to form the ring elements in any desirable dimension, since applicant has not stated the criticality of having a particular dimension and invention would function equally as well with any hole-fitting dimension.

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6. Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baumann in view of Heusinkveld (4,607,970).

Baumann discloses a spine binder comprising all the elements as claimed in Claims 1 and 12. However, Baumann does not disclose: an interior slot in each ring element that provides flexibility to ring element when the ring pair is engaged, wherein the ring elements absorb a stress that would otherwise disengage the ring element.

Heusinkveld discloses in Fig. 2, a spine binder having ring elements (2 and 3) wherein ring element (2) has an interior slot (7), and ring element (3) has an interior slot (11).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Baumann's spine binder with both ring elements having interior slots as taught by Heusinkveld for the purpose connectively securing both ring elements together.

In regards to **Claim 9** wherein the slot provides sufficient flexibility, wherein the ring element absorbs stress, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Therefore, the Heusinkveld ring elements are capable of providing sufficient flexibility through absorption.

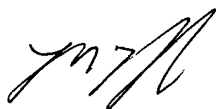
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***Prior Art References***

The prior art references listed in the attached PTO-892, but not used in a rejection of the claims, are cited for (their/its) structure. Im, Youngs et al, Mullin et al, Bouley, Strong, Mullin et al, Richards, Moosmuller, Jamison, Vanni, Meyerson, Jensen et al discloses similar spine binders.

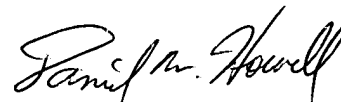
**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571)272-4477. The examiner can be reached on Monday - Friday from 7:30 AM to 3:45 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner supervisor, A. L. Wellington, can be reached on (571) 272-4483. The fax number for TC 3700 is (703)-872-9306.



MTH

January 5, 2005



**Daniel W. Howell  
Primary Examiner  
Art Unit 3722**